



U.S. Department of Justice

United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

September 26, 2013

BY HAND

Honorable Laura Taylor Swain
United States District Judge
Southern District of New York
500 Pearl Street, Suite 755
New York, New York 10007

Re: *United States v. Daniel Bonventre, et al.*
No. S10 10 Cr. 228 (LTS)

Dear Judge Swain:

The Government respectfully writes to respond to the letter submitted by defense counsel today requesting a new seating arrangement for the trial. Their request should be denied.

In their letter, the defendants claim that they are “unduly and unnecessarily prejudice[d]” because the current setup is “[u]nlike other courtrooms in the Courthouse.” That is, of course, wrong. Many of the large courtrooms in the 40 Foley Square Courthouse are set up in exactly the same way as the Court has arranged seating in this case. Numerous trials over the past century have been conducted in those large 40 Foley Square courtrooms and no prejudice has resulted from having the Government positioned in front of the jury. Moreover, the present seating arrangement is the traditional seating arrangement utilized in criminal trials throughout the United States. See United States v. Nava-Salazar, 735 F.Supp. 274, 278 (N.D. Ill 1990) (denying defendant's motion to reposition counsel tables and observing that the “government has traditionally been given the option of sitting closest to the jury because it bears the burden of proof”). There is no reason to depart from that long standing tradition in this case.

Moreover, the premise of the defendants’ claim of prejudice—namely that “the overriding objective should be equal distance from the jury”—is wrong. The Government alone bears the burden of proof in a criminal trial and that is why it is traditionally afforded a position closest to the jury. Nava-Salazar, 735 F.Supp. at 278. Accordingly, the Government is entitled, as it always is, to be seated in its present position.

Finally, the defendants have known for months that this was how the Court intended to set up the courtroom for trial. Accordingly, the Government and the Court’s staff have been working on designing and setting up computer systems, viewing screens and audio for the trial. Undoing those preparations at this point and for no good reason makes no sense whatsoever and would levy additional burdens on both the Government and the staff of the Court.

For those reasons, the Government respectfully submits that the defendants request to alter the seating arrangements in the courtroom be denied.

Respectfully,

_____/s_____
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